

Patent  
Attorney Docket No. 032,290-109  
(formerly END-777)



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of:

**FOERSTER et al.**

**Serial No.: 09/954,646**

Filed: September 18, 2001

For: METHODS AND DEVICES FOR  
DEFINING AND MARKING TISSUE

Group Art Unit: 3737

Examiner: Eleni M. Mantis Mercader

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR §§ 1.97 and 1.98, the items identified in this Information Disclosure Statement (“IDS”) are brought to the attention of the Office. The items are listed on the attached form PTO-SB/08a and PTO-SB/08b.

The items identified in this IDS may or may not be “material” pursuant to 37 CFR § 1.56. The submission thereof by Applicant is not to be construed as an admission that any such patent, publication or other information referred to therein is material or considered to be material (37 CFR § 1.97(h)), or even qualifies as “prior art” under 35 USC § 102 with respect to this invention unless specifically designated by Applicant as such.

**INFORMATION DISCLOSURE STATEMENT FILING PROVISION:**

- This IDS is believed to be timely in that it is being submitted under 37 CFR § 1.97(b), that is (1) within three months of the filing date of the application, which is not a continued prosecution application filed under § 1.53(d); or (2) within three months of entry of the national stage as set forth in 37 CFR § 1.491; or (3) before the mailing of a first Office action on the merits; or (4) before the

**CERTIFICATE OF MAILING (37 C.F.R. §1.8a)**

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

March 29, 2006  
Date of Deposit  
NBI:678418.1

  
Cynthia B. Pacheco

mailing of a first Office action after filing a request for continued examination under § 1.114. Thus, no fee is required.

- However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and charge the fee due under 37 CFR § 1.17(p) to the deposit account referenced below.
- However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and a statement under 37 CFR § 1.97(e) is included below, thus no fee is required.
- This IDS is being submitted under 37 CFR § 1.97(c), that is after mailing of a first Office action on the merits, but before a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311.
  - The fee due under 37 CFR § 1.17(p) is submitted herewith.
  - A statement under 37 CFR § 1.97(e) is included below, thus no fee is required. In the event that this IDS is not received before a Final Action or a Notice of Allowance, then Applicant respectfully requests that the Office consider the filing of these papers to be submitted under 37 CFR § 1.97(d) and charge the fee due under 37 CFR § 1.17(p) to the deposit account below.
- This IDS is being submitted under 37 CFR § 1.97(d), that is after a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311, but before payment of the issue fee. A statement under 37 CFR § 1.97(e) is included below. The fee due under 37 CFR § 1.17(p) is submitted herewith.

**Statement Under 37 CFR § 1.97(e):**

- Each item contained in this IDS was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS.
- No item contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this statement after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 CFR § 1.56(c) more than three months prior to the filing of this IDS.

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**PAYMENT AND/OR AUTHORIZATION TO CHARGE FEES:**

- A check in the amount of \$180.00 is enclosed for the above fee(s).
- Please charge \_\_\_\_\_ to Deposit Account No. **50-2862** for the above fee(s).

The Commissioner is authorized to charge any fees required by the filing of these papers, and to credit any overpayment to O'Melveny and Myers' Deposit Account No. **50-2862**.

Respectfully submitted,

O'MELVENY & MYERS LLP

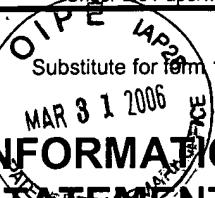
Dated: March 29, 2006

By: Diane K. Wong  
Diane K. Wong  
Reg. No. 54,550  
Attorneys for Applicant

DKW/cp

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Substitute for form 1449A-PTO

# INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Sheet	1	of	2	Attorney Docket No.	032,290-109 (formerly END-777)
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## U.S. PATENT DOCUMENTS

Examiner Initials	Cite No. <sup>1</sup>	Document No.	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
	1.	US 3,823,212	07/1974	Chvapil	
	2.	US 4,320,201	03/1982	Berg	
	3.	US 4,356,572	11/1982	Guillemin	
	4.	US 4,744,364	05/1988	Kensey	
	5.	US 4,789,401	12/1988	Ebinger	
	6.	US 5,645,566	07/1997	Brenneman	
	7.	US 5,514,379	05/1996	Weisleder	
	8.	US 6,083,522	07/2000	Chu	
	9.	US 6,220,248	04/2001	Voegele	
	10.	US 6,766,186	07/2004	Hoyns	

## FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>
		Country Code <sup>3</sup> Number <sup>4</sup> Kind Code (if known)				

## NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s) volume-issue number(s), publisher, city and/or country where published	T <sup>2</sup>
	11.	DUFRANE, P. et al: "Prebiopsy Localization of Non-Palpable Breast Cancer." Journal Belgede Radiologie (October 1, 1990) Vol. 73, No. 5	
	12.	HUTMACHER, DIETMAR, "A Review of Material Properties of Biodegradable and Bioresorbably Polymers and Devices for GTR and GBR Applications." The International Journal of Oral & Maxillofacial Implants. (1996) Vol. 11, No. 5, pp. 667-678	

Examiner Signature	Date Considered
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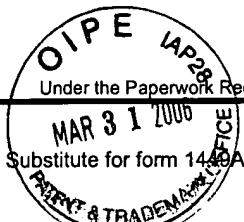
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This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## INFORMATION DISCLOSURE STATEMENT BY APPLICANT

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Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s) volume-issue number(s), publisher, city and/or country where published	T <sup>2</sup>
	13.	LEE AND KNOCHEL: "Technical Developments and Instrumentation: Air as an Ultrasound Contrast Marker for Accurate Determination of Needle Placement." Radiology 143; June 1982; pp. 787-788	
	14.	LEE et al: "Air as a Contrast Marker for Ultrasound-Guided Fetal Transfusions." Radiology, vol. 138, Feb. 1981, pp. 490-491	
	15.	SULLIVAN: "Perspective: Needle Core Biopsy of Mammographic Lesions." AJR vol. 162, March 1994 (received 9/20/1993) pp. 601-608	
	16.	YANDOW AND MATALLANA: "Gas Contrast Guided Needle Biopsy of the Head of the Pancreas." Radiology, vol. 137, November 1980; pp. 543-544	

Examiner Signature	Date Considered
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